

REMARKS

Amendments

Claim 1 has been amended to recite that the concentrate consists of "an algae oil including an  $\omega$ -3 fatty acid" This amendment is supported in the substitute specification at page 4, in Example 1. Claim 37 has been amended to conform the language to more conventional U.S. structure, from "an  $\omega$ -3 fatty acid containing animal fat" to "an animal fat containing an  $\omega$ -3 fatty acid." It is apparent from the specification (see, e.g. p. 6, last paragraph), that animal fats may contain  $\omega$ -3 fatty acids, not the other way around. New claims 43-48 round out the patent protection sought by Applicant. With these amendments, claims 1, 25-28, and 37-48 are pending and under consideration.

No new matter has been added.

In the Advisory Action mailed November 4, 2011, the Examiner wrote:

"Applicant urges that example 1a contains the required ratio of the claims. This example does not consist of the 2 elements required of the claims. Algae oil contains at least 55% other fatty acids and triglycerides. Claims 1 and 38 are not merely a mixture of two ingredients but the mixture must also be in micelle form with a particular particle size. With regard to claim 37, the specification at pages 6-7 refers to the concentrate as having 12% w/w  $\omega$ -3 fatty acids and not 21% w/w. There is no water

mentioned in claim 37 and this is considered to be an essential ingredient to the composition. The specification refers to diluting the concentrate to make it clear. Also there is no suggestion as to the particle size of the micelles.

The particle size of 40 nm is disclosed in the specification at page 4, and holds true for all concentrates according to the invention. With regards to claim 37, Example 1b (which is described in the specification beginning at page 6, lines 19), describes a composition consisting of 210 grams of animal fat and 790 grams of polysorbate. Thus, the composition contains a total of 1000 grams of material, including 210 grams of animal fat. Therefore, the composition of Example 1b contains 21% by weight of animal fat, as recited in claim 37. Finally, the concentrate according to claim 37 does not contain water as an essential ingredient. The specification, at page 6, lines 27-30, describes diluting the concentrate (solublizate) in water. Thus, water is not a component of the concentrate, but merely a dispersion medium.

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims are in full compliance with the requirements of 35 U.S.C. § 112.

Conclusion

Applicant respectfully submits that the application is condition for allowance, and prompt notice to that effect is earnestly solicited. Should any questions arise, the Examiner is invited to call the undersigned representative.

Respectfully submitted,

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